ORIGINAL

Supreme Court, U.S.
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No. 90-1265

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

MICHAEL P. OSHATZ, PETITIONER

against

UNITED STATES OF AMERICA,

ON A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

AFFIRMATION IN SUPPORT OF MOTION TO FILE A REPLY TO BRIEF IN OPPOSITION AND GENERALLY PROCEED IN FORMA PAUPERIS

Michael P. Oshatz, pro se
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I, Michael P. Oshatz, declare and say that I am the Petitioner in the above-entitled case; that in support of my motion to file a reply to the brief for the United States in opposition to my petition for a writ of certiorari to the United States Court of Appeals for the Second Circuit and generally proceed on appeal without being required to prepay any further fees, costs or give security therefore, I state that because of my poverty I am unable to pay any further costs of said proceeding or to give security therefor; that I believe I am entited to redress; and that the issues which I have presented to the Supreme Court for review are the following:

1. Whether petitioner's Sixth Amendment rights were violated by district court's rulings, during cross-examination of prosecution's key witness, which excluded

critical defense exhibits and prevented a significant line of inquiry which would have showed bias on his part because of his strong financial interest in pleasing the prosecution.

2. Whether, if petitioner's Sixth Amendment rights were violated, such error was nevertheless harmless beyond a reasonable doubt.

3. Whether district court's decision to allow the prosecution to ask guilt assuming hypothetical questions on cross examination of petitioner's character witness, and the court of appeals' violation of its own "clear" rule (and that of almost all other Circuits) against such cross-examination, violated petitioner' right to presumption of his innocence.

4. Whether admission of prosecution's "summary chart", under circumstances which violated clear Second Circuit precedent and the standards of Fed. R.

Evid. 1006, together with a number of other erroneous evidentiary and procedural rulings by the district court, prevented petitioner from having a fair trial.

I further affirm that the responses which I have made to the questions and instructions below relating to my ability to pay the balance of the cost of prosecuting the appeal are true.

1. Am I presently employed? No

I have not been emplcyed since 1987 when I was a partner in a law firm. We lost money that year. The last time I earned "wages" was the calendar year 1986 when I earned approximately $7,750 a month.

2. Have I received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other

source? Yes

In the past twelve months I have received approximately $2,000 in rental income (from an old computer transaction which has no residual value), $1,400 of interest (received approximately eight months ago - the funds that generated that interest are long gone) and $4.48 of dividends.

3. Do I own any cash or checking or savings account? Yes

I have a checking account which was seized by a creditor. There is no balance in the account. I do not own any cash or savings accounts.

4. Do I own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? Yes

I have an interest in a general partnership which owns interests in a number of real estate partnerships. It is not

clear whether the general partnership has any net worth as of now. Consequently, its value is impossible to determine. I know that it does not have any net income and has not had any for at least two years. In any event, I have large judgements entered against me by several banks which have served restraining orders and property garnishments against my interest in the partnership. It is highly unlikely that I will ever receive any funds or property from the partnership.

5. I have one child in college (Deborah Oshatz), one child in law school (Daniel Oshatz) and a wife who has a part time job (Louise Oshatz). The children live on combinations of loans and grants and are only partially dependant on me. I have been able to help them and contribute my wife's and my own support only by borrowing from family and friends.

I understand that a false statement or answer to any question in this affirmation will subject me to penalties for perjury.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 11, 1991.

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